



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

SMW

Docket No: 10148-07

8 July 2008

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 July 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 13 January 1981, you enlisted in the Navy at age 23 after a prior period of honorable service in the Army. On 30 April 1981, you were in an unauthorized absence (UA) status until 13 August 1981, a period of about 105 days. However, it appears that no disciplinary action was taken for this offense.

During the period 16 September 1981 to 8 November 1985, you were in a UA status on two occasions totaling about 1,407 days. On 27 November 1985, you were convicted by a special court-martial (SPCM) of the two periods of UA totaling 1,407 days. The sentence included confinement at hard labor, reduction in rank, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 4 June 1986, you were so discharged.

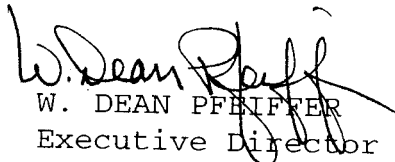
The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth.

The Board also considered your contention that personal problems may have contributed to your misconduct and belief that your UA's are considered a misdemeanor. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your lengthy UA's and conviction by a SPCM. Furthermore, the two UA's for which you were convicted by a court-martial are considered serious offenses. Regarding your contention, personal problems do not excuse misconduct. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

The Board noted that as a result of your prior honorable service in the Army, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director